IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

Tr.P(Crl.).No. 11 of 2007()

S.T.85/06 IN CC.122/2003 of J.M.F.C.,PALA

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PETITIONER: COMPLAINANT:

MALABAR CHIT FUNDS (PVT.) LTD.,
3RD FLOOR, JAYANTHI BUILDINGS, CALICUT,
REPRESENTED BY P. SATHER,
MANAGING DIRECTOR.

BY ADV. SRI.A.AHZAR

RESPONDENTS:

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1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. PRAJITH V., AGED 35, S/O.JAYAPRAKASH,
K.P.NIVAS, KINALOOR P.O.,
BALUSSERI, KOZHIKODE DISTRICT.

R1 BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS TRANSFER PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 06/03/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Tr.P.(Cr.).No. 11 of 2007

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Dated this the 6th day of March, 2007

O R D E R

The petitioner is the complainant in a prosecution under Section 138 of the N.I. Act. The second respondent is the accused in that crime. The petitioner is a Private Ltd. Company, which has its registered Office at Calicut. The petitioner had initiated proceedings under Section 138 of the N.I. Act against the second respondent, who has his place of residence at Calicut. The complaint was filed before the Judicial First Class Magistrate, Pala as the cheque was presented through the branch of the petitioner there. Cognizance has been taken and the case, S.T. 85 of 2006, is pending before that court. The petitioner now wants the case to be transferred to the court of J.F.C.M.-I, Calicut. It is submitted that the transfer of the case would advance the interests of both parties.

2. Notice was issued to the second respondent. Notice has not been served on the second respondent. Notice was directed to be given to the learned counsel for the respondent appearing before the

court below. The learned counsel for the petitioner submits that such notice could not served on the counsel as the counsel refused to accept the same. The petitioner was directed to file an affidavit to that effect. No affidavit has been filed. But notice having already been served, it is not necessary to wait for service of notice on the second respondent.

3. The learned counsel for the petitioner submits that the transfer will be for the advantage of both the petitioner/complainant and the respondent/accused as they are permanent residents at Calicut. Many connected cases have already been transferred similarly to the court of J.F.C.M. -I, Calicut. The respondent has not appeared and raised any objection. I must, in these circumstances, assume that the second respondent/accused has no objection against the proposed transfer and the transfer would advance the interests of convenience to both parties.

4. This transfer petition is, in these circumstances, allowed. S.T.No. 85 of 2006 pending before the Court of Judicial First Class Magistrate -I, Pala is transferred to the Court of Judicial First Class Magistrate -I, Calicut. The parties shall appear before that Court on 26.3.2007. The learned Judicial First Class Magistrate - I, Pala shall forthwith forward the records to the Judicial First Class Magistrate -I,

Calicut and shall direct the parties to appear before that Court on 26.3.2007. The parties shall appear before the learned J.F.C.M. -I, Calicut on that day. Communicate the order to both courts forthwith.

(R. BASANT)
Judge

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R. BASANT, J.

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Crl.M.C.Nos. 11 & 23 of 2007

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Dated this the 22nd day of February, 2007

O R D E R

Service is not complete. Await return of notice. Counsel submits that notice, though served on the counsel for the accused/respondent appearing before the court below, the same was refused. The petitioner shall file an affidavit to confirm that such an attempt of service has been made. Verify service and call on 6.3.2007.

(R. BASANT)
Judge

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R. BASANT, J.

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Tr.P.(Cr.).Nos. 11, 14 & 18 of 2007

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Dated this the 23rd day of January, 2007

O R D E R

Issue notice to the second respondent by speed post ack. due. Simultaneously give notice to the learned counsel for the second respondent, who is appearing in the court below and file a memo to that effect. Put up after service is complete. Call on 19.2.2007.

(R. BASANT)
Judge

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